

## PART 282—APPROVED UNDERGROUND STORAGE TANK PROGRAMS

### § 282.92 Tennessee State-Administered Program.

(a) The State of Tennessee is approved to administer and enforce a petroleum underground storage tank program in lieu of the Federal program under subtitle I of the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, 42 U.S.C. 6991 *et seq.* The State's program, as administered by the Tennessee Department of Environment and Conservation, Division of Underground Storage Tanks, was approved by EPA pursuant to 42 U.S.C. 6991c and part 281 of this chapter. EPA approved the Tennessee program on November 17, 1998 and it was effective on January 19, 1999.

(b) Tennessee has primary responsibility for enforcing its petroleum underground storage tank program. However, EPA retains the authority to exercise its inspection and enforcement authorities under sections 9005 and 9006 of subtitle I of RCRA, 42 U.S.C. 6991d and 6991e, as well as under other statutory and regulatory provisions. EPA also retains all authority to operate the hazardous substance underground storage tank program.

(c) To retain program approval, Tennessee must revise its approved program to adopt new changes to the Federal subtitle I program which make it more stringent, in accordance with section 9004 of RCRA, 42 U.S.C. 6991c, and 40 CFR part 281, subpart E. If Tennessee obtains approval for the revised requirements pursuant to section 9004 of RCRA, 42 U.S.C. 6991c, the newly approved statutory and regulatory provisions will be added to this subpart and notice of any change will be published in the FEDERAL REGISTER.

(d) Tennessee has final approval for the following elements submitted to EPA in the State's program application for final approval and approved by EPA on November 17, 1998. Copies may be obtained from the Underground Storage Tank Program, Tennessee Department of Environment and Conservation, Division of Underground Storage Tanks, 4th Floor, L&C Tower,

401 Church Street, Nashville, Tennessee 37243-1541.

(1) *State statutes and regulations.* (i) The provisions cited in this paragraph are incorporated by reference as part of the underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(A) Tennessee Statutory Requirements Applicable to the Underground Storage Tank Program, 1998.

(B) Tennessee Regulatory Requirements Applicable to the Underground Storage Tank Program, 1998.

(ii) The following statutes and regulations are part of the approved state program, although not incorporated by reference herein for enforcement purposes.

(A) The statutory provisions include:

(I) General Statutes of Tennessee, Chapter 215—Tennessee Petroleum Underground Storage Tank Act:

Section 68-215-107 Supervision, inspection, and enforcement responsibilities

Section 68-215-114 Order for correction—Liability

Section 68-215-116 Failure to take proper action

Section 68-215-119 Review of orders and revocations

Section 68-215-120 Criminal penalties—Suspension of certificates

Section 68-215-121 Civil penalty—Assessment

Section 68-215-122 Injunctions

(B) The regulatory provisions include:

(I) Tennessee Department of Environment and Conservation, Underground Storage Tank Program Rules, Chapter 1200-1-15: Not applicable.

(iii) The following statutory and regulatory provisions are broader in scope than the Federal program, and are not part of the approved program, and are not incorporated by reference herein for enforcement purposes.

(A) The statutory provisions include:

(I) Tennessee Code Annotated, Title 68, Chapter 215:

Section 68-215-102(a)(3) [Insofar as it refers to the intent to develop long range plans to meet future petroleum underground storage tank demands.]

Section 68-215-102(a)(5) [Insofar as it provides for a cleanup fund.]

Section 68-215-104 [Insofar as it applies to persons other than underground storage tank owners or operators.]

Section 68-215-106(a)(6) [Insofar as it requires any person who deposits petroleum in underground storage tanks to notify the owner or operator of state notification requirements.]

Section 68-215-106(c)(2) [Insofar as it applies to persons other than owners and operators placing petroleum substances in an underground storage tank.]

Section 68-215-107(f)(9) [Insofar as it provides for rule development for the assessment and collections of fees.]

Section 68-215-109 [Insofar as it allows for levying and collection of annual fees to operate the underground storage tank fund and develop rules.]

Section 68-215-110 [Insofar as it establishes a petroleum underground storage tank fund.]

Section 68-215-111 [Insofar as it refers to uses of the state underground storage tank fund.]

Section 68-215-112 [Insofar as it established a petroleum underground storage tank board.]

Section 68-215-113 [Insofar as it established board meeting, public hearing, and board compensation.]

Section 68-215-115 [Insofar as it establishes cost recovery and apportionment of liability for cleanups.]

Section 68-215-117 [Insofar as it applies to persons other than underground storage tank owners and operators.]

Section 68-215-125 [Insofar as it applies to the state underground storage tank fund.]

Section 68-215-128 [Insofar as it requires a report to the General Assembly.]

(B) The regulatory provisions include:

(1) Tennessee Department of Environment and Conservation, Underground Storage Tank Program Rules, Chapter 1200-1-15:

Section .09 [Insofar as it refers to guidelines and procedures for administering the Tennessee petroleum underground storage tank fund.]

Section .10 [Insofar as it refers to annual fees, the use, collection and failure to pay fees.]

Section .11 [Insofar as it requires underground storage tank fees, use, collection and failure to pay penalties, and fee notices.]

(2) *Statement of legal authority.* “Attorney General’s Statement of ‘No Less Stringent’ Requirements and ‘Adequate Enforcement’ Authorities Implementing Underground Storage Tank Program”, signed by the State Attorney General on June 3, 1996, though not incorporated by reference, is referenced

as part of the approved underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(3) *Demonstration of procedures for adequate enforcement.* The “Demonstration of Procedures for Adequate Enforcement” submitted as part of the original application on September 1, 1996, though not incorporated by reference, is referenced as part of the approved underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(4) *Program description.* The program description and any other material submitted as part of the original application on September 1, 1996, though not incorporated by reference, are referenced as part of the approved underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(5) *Memorandum of Agreement.* The Memorandum of Agreement between EPA Region 4 and the Tennessee Department of Environment and Conservation, Division of Underground Storage Tanks, signed by the EPA Regional Administrator on July 1, 1998, though not incorporated by reference, is referenced as part of the approved underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

[64 FR 28929, May 28, 1999]

EFFECTIVE DATE NOTE: At 64 FR 28929, May 28, 1999, §282.92 was added, effective July 27, 1999.

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#### APPENDIX A TO PART 282—STATE REQUIREMENTS INCORPORATED BY REFERENCE IN PART 282 OF THE CODE OF FEDERAL REGULATIONS

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##### *Tennessee*

(a) The statutory provisions include:

1. Section 68-215-101 Short title
2. Section 68-215-102 Legislative intent [Except §68-215-102(a)(3) and except §68-215-102(a)(5).]
3. Section 68-215-103 Definitions
4. Section 68-215-105 Minimum requirements for tanks
5. Section 68-215-106 Notification as to tanks in use and tanks taken out of operations [Except §68-215-106(a)(6) and except §68-215-106(c)(2).]

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6. Section 68-215-107 Supervision, inspection, and enforcement responsibilities [Except §68-215-107(e) and except §68-215-107(f)(9).]
  7. Section 68-215-108 Proprietary information
  8. Section 68-215-118 Compliance by governmental entities
  9. Section 68-215-123 Complaints—Hearings—Appeals
  10. Section 68-215-124 Exemptions
  11. Section 68-215-126 Preemption of local regulation—Exception
  12. Section 68-215-127 Exclusivity of provisions
    - (b) The regulatory provisions include:
      1. Section .01 Program Scope and Minimum Requirements for Tanks
        - Section .01(1) Applicability
        - Section .01(2) Minimum requirements for tanks
        - Section .01(3) Definitions
      2. Section .02 UST Systems: Design, Construction, Installation and Notification
        - Section .02(1) Performance standards for new UST systems
        - Section .02(2) Upgrading of existing UST systems
        - Section .02(3) Notification requirements
      3. Section .03 General Operating Requirements
        - Section .03(1) Spill and overfill control
        - Section .03(2) Operation and maintenance of corrosion protection
        - Section .03(3) Compatibility
        - Section .03(4) Repairs allowed
        - Section .03(5) Reporting and record-keeping
      4. Section .04 Release Detection
        - Section .04(1) General requirements for release detection
        - Section .04(2) Requirements for petroleum UST systems
        - Section .04(3) Methods of release detection for tanks
        - Section .04(4) Methods of release detection for piping
        - Section .04(5) Release detection record-keeping
      5. Section .05 Release Reporting, Investigation and Confirmation
        - Section .05(1) Reporting of suspected releases
        - Section .05(2) Investigation due to off-site impacts
        - Section .05(3) Release investigation and confirmation steps
        - Section .05(4) Reporting and cleanup of spills and overfills
  6. Section .06 Release Response and Corrective Action for UST Systems Containing Petroleum
    - Section .06(1) General
    - Section .06(2) Initial response
    - Section .06(3) Initial abatement measures and site check
    - Section .06(4) Initial site characterization
    - Section .06(5) Free products removal
    - Section .06(6) Investigations for soil and ground water cleanup
    - Section .06(7) Corrective action plan
    - Section .06(8) Public participation
  7. Section .07 Out-of-Service UST System and Closure
    - Section .07(1) Temporary closure
    - Section .07(2) Permanent closure and changes-in-service
    - Section .07(3) Assessing the site at closure or change-in-service
    - Section .07(4) Applicability to previously closed UST systems
    - Section .07(5) Closure records
  8. Section .08 Financial Responsibility
    - Section .08(1) Applicability
    - Section .08(2) Compliance dates
    - Section .08(3) Definition of terms
    - Section .08(4) Amount and scope of required financial responsibility
    - Section .08(5) Allowable mechanisms and combinations of mechanisms
    - Section .08(6) Financial test of self-insurance
    - Section .08(7) Guarantee
    - Section .08(8) Insurance and risk retention group coverage
    - Section .08(9) Surety bond
    - Section .08(10) Letter of credit
    - Section .08(11) Petroleum underground storage tank fund
    - Section .08(12) Trust fund
    - Section .08(13) Standby trust fund
    - Section .08(14) Substitution of financial assurance mechanisms by owner or operator
    - Section .08(15) Cancellation or nonrenewal by a provider of financial assurance
    - Section .08(16) Reporting by owner or operator
    - Section .08(17) Recordkeeping
    - Section .08(18) Drawing on financial assurance mechanisms
    - Section .08(19) Release from requirements
    - Section .08(20) Bankruptcy or other incapacity of owner or operator or provider of financial assurance
    - Section .08(21) Replenishment of guarantees, letters of credit, or surety bonds
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